

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Gabriella Carpenter	Team: Squad #5	CCRB Case #: 201800736	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 01/22/2018 2:30 PM	Location of Incident: § 87(2)(b)	Precinct: 101	18 Mo. SOL 7/22/2019	EO SOL 7/22/2019	
Date/Time CV Reported Sat, 01/27/2018 2:41 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 01/27/2018 2:41 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Ferrigno	15647	951729	101 PCT
2. An officer			101 PCT
3. POM Kevin Gaynor	01495	952769	101 PCT
4. SGT John Chavatte	02997	934619	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christophe Gargano	16590	933650	101 PCT
2. POM Bryan Grupp	02567	949065	101 PCT
3. POM Franklyn Enoe	06652	941011	101 PCT
4. POF Michelle Batsonseymour	11245	931488	101 PCT
5. LT Carlos Serrano	00000	946236	101 PCT
6. POM Edmond Decio	31394	915565	101 PCT
7. POF Yvonne Barnes	21616	939900	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Chavatte	Abuse: Sergeant John Chavatte entered § 87(2)(b) in Queens.	§ 87(2)(b)
B.POM Joseph Ferrigno	Abuse: Police Officer Joseph Ferrigno entered § 87(2)(b) in Queens.	§ 87(2)(b)
C.SGT John Chavatte	Abuse: Sergeant John Chavatte damaged § 87(2)(b)'s property.	§ 87(2)(b)
D.SGT John Chavatte	Discourtesy: Sergeant John Chavatte spoke discourteously to § 87(2)(b)	§ 87(2)(b)
E.SGT John Chavatte	Force: Sergeant John Chavatte used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Joseph Ferrigno	Force: Police Officer Joseph Ferrigno used physical force against § 87(2)(b)	§ 87(2)(b)
G.POM Joseph Ferrigno	Force: Police Officer Joseph Ferrigno used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H.SGT John Chavatte	Force: Sergeant John Chavatte used physical force against § 87(2)(b)	
I.SGT John Chavatte	Force: Sergeant John Chavatte used physical force against § 87(2)(b)	
J.SGT John Chavatte	Abuse: Sergeant John Chavatte threatened § 87(2)(b) with the use of force.	
K.POM Kevin Gaynor	Force: Police Officer Kevin Gaynor used physical force against § 87(2)(b)	
L.SGT John Chavatte	Off. Language: Sergeant John Chavatte made remarks to § 87(2)(b) based upon her gender.	
M.POM Joseph Ferrigno	Force: Police Officer Joseph Ferrigno hit § 87(2)(b) against an inanimate object.	
N. An officer	Force: An officer hit § 87(2)(b) against an inanimate object.	
O. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon her gender.	

Case Summary

§ 87(2)(b) filed a complaint with the CCRB via the website on January 27, 2018 on behalf of herself, her § 87(2)(b) son, § 87(2)(b) and her § 87(2)(b) daughter, § 87(2)(b).

On January 22, 2018, at approximately 2:30 p.m., § 87(2)(b) drove to his house, located at § 87(2)(b) in Queens, with his friend § 87(2)(b), § 87(2)(b)'s mother, and § 87(2)(b) his sister, were also home at the time. Shortly after § 87(2)(b) entered the house, Sergeant John Chavatte and Police Officer Joseph Ferrigno of the 101st Precinct entered the house (**Allegations A and B: Abuse of Authority**, § 87(2)(g)) allegedly after breaking the lock on the door (**Allegation C: Abuse of Authority**, § 87(2)(g)). While in the living room, § 87(2)(b) alleged that Sgt. Chavatte spoke discourteously to § 87(2)(b) (**Allegation D: Discourtesy**, § 87(2)(g)) and § 87(2)(b) alleged that Sgt. Chavatte hit his head (**Allegation E: Force**, § 87(2)(g)). § 87(2)(b) ran to a bedroom in the back of the house and Sgt. Chavatte followed him. § 87(2)(b) alleged that PO Ferrigno pushed her to the floor (**Allegation F: Force**, § 87(2)(g)) and stepped on her thigh (**Allegation G: Force**, § 87(2)(g)) as he was trying to get to the bedroom. § 87(2)(b) and § 87(2)(b) alleged that Sgt. Chavatte punched § 87(2)(b) in the face (**Allegation H: Force**, § 87(2)(g)) and § 87(2)(b) alleged that Sgt. Chavatte also hit his head in the bedroom (**Allegation I: Force**, § 87(2)(g)). Sgt. Chavatte removed his Taser and pointed it at § 87(2)(b) (**Allegation J: Abuse of Authority**, § 87(2)(g)). Backup officers arrived, and § 87(2)(b) alleged that Police Officer Kevin Gaynor of the 101st Precinct pushed her (**Allegation K: Force**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) alleged that Sgt. Chavatte referred to § 87(2)(b) as a “cunt” or “bitch” at least once (**Allegation L: Offensive Language**, § 87(2)(g)). § 87(2)(b) alleged that PO Ferrigno and an unidentified officer hit his head against the doorframe (**Allegations M and N: Force**, § 87(2)(g)). § 87(2)(b) alleged that the same unidentified officer referred to § 87(2)(b) as a “cunt” when he was walking outside with her (**Allegation O: Offensive Language**, § 87(2)(g)).

There is no video evidence in this case.

Findings and Recommendations

Allegation A: Abuse of Authority: Sergeant John Chavatte entered § 87(2)(b) in Queens.

Allegation B: Abuse of Authority: Police Officer Joseph Ferrigno entered § 87(2)(b) in Queens.

Allegation C: Abuse of Authority: Sergeant John Chavatte damaged § 87(2)(b)'s property.

It is undisputed that Sgt. Chavatte and PO Ferrigno entered § 87(2)(b) in Queens.

§ 87(2)(b) stated that he drove home with his friend, § 87(2)(b) and about eight blocks from his house he saw a police car driving the opposite direction (BR 01). The officers did not appear to signal for him to stop in any way and § 87(2)(b) did not think that he had committed any

traffic infractions. § 87(2)(b) parked at his house and he and § 87(2)(b) started to walk inside when he saw the officers he had passed stop in front of his house with their lights on and get out of their car; § 87(2)(b) did not testify to the officers saying anything to them or doing anything indicating that they should stop. § 87(2)(b) and § 87(2)(b) went into the house and locked the door. Immediately after, the officers broke the door open, breaking the bottom lock, and Sgt. Chavatte and PO Ferrigno walked into the house.

§ 87(2)(b) testified that she let § 87(2)(b) and his friend into the house and locked the door behind them (BR 02 and BR 05). After three or four minutes there were three loud bangs then the lock broke and the wood near the lock splintered, causing the door to open. From outside the house, Sgt. Chavatte told § 87(2)(b) to come outside and said that he knew the officers had been following him. Sgt. Chavatte and PO Ferrigno stepped inside without asking for permission, and § 87(2)(b) told them that they did not have permission to enter.

Contact attempts to § 87(2)(b) were exhausted without obtaining a statement (BR 03).

The investigation could not contact § 87(2)(b) as § 87(2)(b) could not provide contact information for her and no information was available through database searches (BR 04).

PO Ferrigno (BR 06) and Sgt. Chavatte (BR 07) testified that they were driving when they observed § 87(2)(b) driving without a front license plate, and they saw that the rear license plate was temporary. § 87(2)(b) drove through the next stop sign without stopping at approximately 50 to 60 miles per hour. PO Ferrigno pursued the car which drove through a second stop sign and came within five feet of hitting children. PO Ferrigno testified that he lost sight of the car for about five seconds when it turned, but he turned shortly after and saw the car again parked in the driveway of § 87(2)(b); Sgt. Chavatte testified that the officers never lost sight of the car. The officers watched § 87(2)(b) and § 87(2)(b) exit the vehicle and run into the house. § 87(2)(b) could have been charged with reckless endangerment at that point. PO Ferrigno testified that the officers knocked on the door of the house and § 87(2)(b) opened it immediately, then the officers entered to arrest § 87(2)(b). Sgt. Chavatte testified that he ran to the front door of the house and tried to turn the door knob in one motion but did not turn it far enough, and his momentum caused his right shoulder to slam into the door; he did not think the door was damaged from this, and he did not intentionally damage the door. PO Ferrigno also testified that he did not think the door was damaged. Sgt. Chavatte testified that after running into the door, he tried the doorknob again and the door opened. The officers could see § 87(2)(b) inside the house once the door was opened, and entered the house to arrest him.

Lt. Serrano, PO Gaynor, PO Gargano, and PO Grupp were not present for these allegations.

§ 87(2)(b) provided a photo taken on the date of incident showing that the wood of the front door of her house split apart (BR 12).

A suspect may not defeat a proper arrest which has been set in motion in a public place by running into their home. Officers may enter a home in hot pursuit if there has been an immediate or continuous pursuit of the defendant from the crime scene. *People v. Hunter*, 938 N.Y.S.2d 719, 721 (BR 15).

§ 87(2)(b) testified that he had not committed any traffic infractions while driving home and the officers had not signaled for him to stop while he was driving, while the officers testified that § 87(2)(b) ran two stop signs and could have been arrested for reckless endangerment, and that they tried to stop him for approximately half a mile. § 87(2)(g)

§ 87(2)(g)

Allegation D: Discourtesy: Sergeant John Chavatte spoke discourteously to § 87(2)(b)

Allegation E: Force: Sergeant John Chavatte used physical force against § 87(2)(b)

Allegation F: Force: Police Officer Joseph Ferrigno used physical force against § 87(2)(b)

Allegation G: Force: Police Officer Joseph Ferrigno used physical force against § 87(2)(b)

§ 87(2)(b) testified that, while everyone was in the living room, Sgt. Chavatte told § 87(2)(b) “Bring your ass outside right now.” Sgt. Chavatte then lunged toward § 87(2)(b) pushing away a chair that was between them. § 87(2)(b) ran to § 87(2)(b) bedroom and § 87(2)(b) followed him. Sgt. Chavatte pushed a couch out of the way then chased § 87(2)(b) and § 87(2)(b) into the bedroom. PO Ferrigno pushed § 87(2)(b) shoulder with one hand, causing her to fall on her back, then stepped on her thigh as he ran past her to the bedroom.

§ 87(2)(b) testified that Sgt. Chavatte pushed furniture out of his way then hit § 87(2)(b) s head twice. § 87(2)(b) and § 87(2)(b) then ran to § 87(2)(b) bedroom. He was not present when PO Ferrigno allegedly pushed § 87(2)(b)

Sgt. Chavatte testified that the officers spoke calmly to § 87(2)(b) and § 87(2)(b) and tried to explain that they were there to arrest § 87(2)(b) for reckless endangerment. § 87(2)(b) screamed at the officers that they needed a warrant. Sgt. Chavatte and possibly PO Ferrigno asked § 87(2)(b) to come outside, but Sgt. Chavatte did not think that they used profanity. There was a couch between Sgt. Chavatte and § 87(2)(b) and Sgt. Chavatte pushed it out of the way since § 87(2)(b) was not complying. § 87(2)(b) pushed § 87(2)(b) into Sgt. Chavatte and ran into a back bedroom; § 87(2)(b) did not fall, and neither officer made physical contact with § 87(2)(b) in the living room.

PO Ferrigno’s testimony was consistent with Sgt. Chavatte’s with the exception that he did not testify to § 87(2)(b) pushing § 87(2)(b)

Lt. Serrano, PO Gaynor, PO Gargano, and PO Grupp were not present for these allegations.

§ 87(2)(g)

§ 87(2)(g)

Allegation H: Force: Sergeant John Chavatte used physical force against § 87(2)(b)
Allegation I: Force: Sergeant John Chavatte used physical force against § 87(2)(b)
Allegation J: Abuse of Authority: Sergeant John Chavatte threatened § 87(2)(b) with the use of force.

It is undisputed that Sgt. Chavatte took out his Taser in the bedroom.

§ 87(2)(b) and § 87(2)(b) testified that after § 87(2)(b) ran to the bedroom, he lay on the bed and § 87(2)(b) lay on top of him. § 87(2)(b) testified that § 87(2)(b) was kicking her legs when she entered the room, but she had not seen her kick an officer. § 87(2)(b) testified that Sgt. Chavatte hit him and § 87(2)(b) on their heads, and both § 87(2)(b) and § 87(2)(b) testified that Sgt. Chavatte punched § 87(2)(b) in the face. The officers pulled § 87(2)(b) and § 87(2)(b) off the bed then Sgt. Chavatte took out his Taser and pointed it at § 87(2)(b) for a few seconds until PO Ferrigno was able to handcuff him.

Sgt. Chavatte testified that § 87(2)(b) was flat on his stomach on the bed and § 87(2)(b) was chest-down on top of him in the bedroom. Sgt. Chavatte told § 87(2)(b) to get off the bed and stop resisting, then handcuffed one of her arms. § 87(2)(b) lifted her chest partway up and used her un-handcuffed arm to punch Sgt. Chavatte in the face a few times. She was also kicking her legs, and kicked his chest and face several times. PO Ferrigno entered the bedroom and tried to grab one of § 87(2)(b)'s hands; Sgt. Chavatte initially stated that § 87(2)(b) was resisting, but later stated that he was not watching § 87(2)(b) and did not know what he was doing. Sgt. Chavatte pulled § 87(2)(b) off the bed by the handcuff, then removed his Taser because he thought that there was a risk of someone being injured if he did not since the civilians were not complying. Sgt. Chavatte turned on his Taser light and pointed it at § 87(2)(b) for a few seconds while telling him, "Stop resisting or I'll Tase you." Sgt. Chavatte could not recall how § 87(2)(b) was positioned at this point, but he immediately allowed PO Ferrigno to handcuff him after Sgt. Chavatte pointed his Taser. Sgt. Chavatte did not use any force against § 87(2)(b) other than pulling her off the bed, and he did not make physical contact with § 87(2)(b) in the bedroom.

PO Ferrigno's testimony was consistent with Sgt. Chavatte's with some distinctions. PO Ferrigno thought that Sgt. Chavatte handcuffed § 87(2)(b) and did not ask another officer

to do so. At one point before § 87(2)(b) was handcuffed, he raised his arm as if to punch Sgt. Chavatte, but PO Ferrigno grabbed his arm and placed § 87(2)(b) in handcuffs.

Lt. Serrano, PO Gaynor, PO Gargano, and PO Grupp were not present for these allegations.

§ 87(2)(b) provided a photo taken by § 87(2)(b) two days after the incident that shows a bruise on § 87(2)(b) right forearm (BR 13).

§ 87(2)(b) arrest photo taken shortly after the incident does not appear to show an injury to her face (BR 14).

A Conducted Electrical Weapon (i.e. Taser) should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or others present. Patrol Guide Procedure 221-08 (BR 16).

§ 87(2)(g) [REDACTED]

[REDACTED]

§ 87(2)(g) [REDACTED]

Allegation K: Force: Police Officer Kevin Gaynor used physical force against § 87(2)(b)

Allegation L: Offensive Language: Sergeant John Chavatte made remarks to § 87(2)(b) based upon her gender.

Allegation M: Force: Police Officer Joseph Ferrigno hit § 87(2)(b) against an inanimate object.

Allegation N: Force: An officer hit § 87(2)(b) against an inanimate object.

Allegation O: Offensive Language: An officer made remarks to § 87(2)(b) based upon her gender.

After Sgt. Chavatte put his Taser away, backup officers entered the bedroom; § 87(2)(b) testified that four additional officers entered the room and § 87(2)(b) testified that ten to twelve additional officers entered the room. § 87(2)(b) testified that an officer, identified as PO Gaynor based on the description she provided and PO Gaynor's testimony that he was the first backup officer to enter the bedroom, pushed her upper chest with two hands; she had been sitting on the floor with her legs to the side, and the push caused her to fall back so that she was lying down. § 87(2)(b) also testified that Sgt. Chavatte pushed § 87(2)(b) arms toward an unidentified bearded officer in plainclothes and said, "Cuff this cunt," and that PO Ferrigno wrapped his right arm around § 87(2)(b)'s neck from behind and pulled him off the ground, then kept his arm around § 87(2)(b)'s neck while he walked him outside. § 87(2)(b) did not testify to an officer putting him in a chokehold, but stated that on the way outside, PO Ferrigno and the unidentified plainclothes officer intentionally hit his head against the bedroom doorframe. § 87(2)(b) likewise did not testify to Sgt. Chavatte telling a backup officer, "Cuff this cunt," but stated that Sgt. Chavatte told PO Ferrigno, "Get this stupid bitch. Get this cunt," before backup officers arrived. § 87(2)(b) testified that after the unidentified plainclothes officer handcuffed § 87(2)(b) he told her, "Shut up, cunt." § 87(2)(b) had bruises on her left arm after the incident but did not receive medical treatment.

Sgt. Chavatte testified that backup officers arrived but did not enter the bedroom and he could not recall any officers entering the house other than Lt. Serrano and PO Gaynor. Sgt. Chavatte told another officer to finish handcuffing § 87(2)(b) but did not say "bitch" or "cunt." He was not aware of any backup officers making physical contact with § 87(2)(b) at any point. Sgt. Chavatte did not know which officers walked out with § 87(2)(b) or § 87(2)(b). He was not watching when § 87(2)(b) walked out.

PO Ferrigno's testimony was consistent with Sgt. Chavatte's with some distinctions. Four or five backup officers he could not recall entered the bedroom, but did not have a role in handcuffing the civilians. PO Ferrigno thought that he walked out with § 87(2)(b) and possibly other officers he could not recall, but he could not recall if § 87(2)(b)'s head hit the doorframe as he was being walked out.

PO Gaynor testified that he was working with Lt. Serrano when they received a radio run that additional units were needed (BR 08). When they arrived, § 87(2)(b) was standing in the open doorway and pointed into the house. PO Gaynor walked to the bedroom in the back of the house where he saw § 87(2)(b), PO Ferrigno, and Sgt. Chavatte. PO Ferrigno and Sgt. Chavatte were handcuffing § 87(2)(b) who was lying on her chest on the floor. PO Gaynor did not use or see any officers use force against § 87(2)(b) or § 87(2)(b). The officers pulled § 87(2)(b) up and some officers walked outside with her, but he was not sure who. None of the officers used the words "bitch" or "cunt" when he was present. PO Ferrigno was not sure if any backup officers besides himself and Lt. Serrano ever entered the house. PO Gaynor later saw officers putting § 87(2)(b) in a police car, but he had not seen him inside the house and could not recall which officers were with § 87(2)(b).

Lt. Serrano's testimony was consistent with PO Gaynor's with some distinctions (BR 09). Lt. Serrano testified that he got out of the car in front of 1408 Dickens Street but told PO Gaynor to keep driving, and he could not recall seeing PO Gaynor or any officers other than Sgt. Chavatte and PO Ferrigno inside the house. A few seconds after entering the living room, Lt. Serrano saw Sgt. Chavatte and PO Ferrigno leading two handcuffed male civilians out of the house, but he had not been present when they were handcuffed.

- Three allegations of physical force were pleaded against him, one in CCRB 200603254 that was substantiated, one in CCRB 200713428 that was unsubstantiated, and one in CCRB 200800472 that was closed as victim uncooperative.
- Three discourtesy (word) allegations were pleaded against him, one in CCRB 200603254 that was substantiated, one in CCRB 201002661 that was withdrawn, and one in CCRB 201709766 that is still open.
- One threat of force allegation was pleaded against him in CCRB 201709766 that is still open.
- PO Ferrigno has been a member of the service for six years and has had no other CCRB allegations pled against him.
- PO Gaynor has been a member of the service for five years and has had one other CCRB allegation pled against him that was not substantiated § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) have not been convicted of any crimes in the last 10 years.
- This case was not suitable for mediation due to § 87(2)(b)s and § 87(2)(b) arrests.
- As of April 19, 2018, no notice of claim was filed with the comptroller's office in regard to this incident (BR 17).

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date